So Ordered
/s/ Patricia A Winston Jan 22, 2025

EFiled: Jan 22 2025 08:40PM EST
Transaction ID 75496745
Case No. N23C-05-001 PAW

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

KHALED FARDJALLAH, Plaintiff, v. CHRISTIANA HOSPITAL, DR. SHAH MARIA AND DR. SCHUH MICHAEL, Defendants.	)	C.A. NO.: N23C-05-001 PAW TRIAL BY JURY OF TWELVE DEMANDED

STIPULATION [AND PROPOSED ORDER] TO AMEND TRIAL SCHEDULING ORDER

IT IS HEREBY STIPULATED by and between Pro Se Plaintiff and counsel for Defendants that the following amendments be made to the Trial Scheduling Order in the above-captioned matter:

Event	**Current Deadline**	**Amended Deadline**
Plaintiff's Expert Disclosure	08/30/24	Unchanged
Defendants' Expert Disclosure	11/26/24	Unchanged
Plaintiff's Rebuttal Expert Disclosure	01/10/25	Unchanged
Discovery Cut-Off	01/24/25	Unchanged
Dispositive Motions	06/18/25	Unchanged
Daubert Motions	10/13/25	Unchanged
Mandatory ADR	01/24/25	**June 1, 2025**
Motions *in Limine*	10/27/25	Unchanged
Filing of Pretrial Stipulation	11/24/25	Unchanged
Pretrial Conference	12/11/25 at 10:30 a.m.	Unchanged
Proposed Jury Instructions	11/24/25	Unchanged

Final Trial Status Report	01/14/26	Unchanged
Trial Date (5 Days)	01/19/26	Unchanged

WHARTON LEVIN

/s/ Khaled Fardjallah
KHALED FARDJALLAH, PRO SE
117 Stature Drive
Newark, DE 19713
Plaintiff

/s/ Phillip M. Casale, Esquire
JAMES E. DRNEC, ESQ. (3789)
PHILLIP M. CASALE, ESQ. (#5727)
300 Delaware Ave., Suite 1110
Wilmington, Delaware 19899-1155
Attorneys for Defendants Christiana Care Health Services, Inc., Maria Shah, M.D. and Michael Schuh, PA

IT IS SO ORDERED this ____ day of _____, 2025.

_____
THE HONORABLE PATRICIA A. WINSTON

This document constitutes a ruling of the court and should be treated as such.

Court:	DE Superior Court-New Castle County
Judge:	Patricia A Winston
File & Serve Transaction ID:	75439683
Current Date:	Jan 22, 2025
Case Number:	N23C-05-001 PAW
Case Name:	KHALED FARDJALLAH V CHRISTIANA HOSPITAL, et al
Court Authorizer:	Patricia A Winston

/s/ Judge Patricia A Winston

EFiled: Apr 14 2025 04:25PM EDT
Transaction ID 76064827
Case No. N23C-05-001 JJC

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

KHALED FARDJALLAH,	)	
	)	
Plaintiff,	)	C.A. NO.: N23C-05-001 JJC
	)	
v.	)	
	)	
CHRISTIANA HOSPITAL, DR. SHAH MARIA AND DR. SCHUH MICHAEL,	)	TRIAL BY JURY OF TWELVE DEMANDED
	)	
Defendants.	)	

PROPOSED ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

AND NOW, this _____ day of _____, 2025, the Court having reviewed *Defendants Christiana Care Health Services, Inc., Maria Shah, M.D., and Michael Schuh, PA-C's Motion for Summary Judgment* (the "Motion"), and all opposition thereto, it is hereby Ordered that the Motion is GRANTED.

IT IS FURTHER ORDERED that all claims as to Defendants Christiana Care Health Services, Inc., Maria Shah, M.D., and Michael Schuh, PA-C shall be dismissed with prejudice.

_____
THE HONORABLE JEFFREY J. CLARK

EFiled: Apr 22 2025 02:19PM EDT
Transaction ID 76125080
Case No. N23C-05-001 JJC

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

KHALED FARDJALLAH,	)	
	)	
Plaintiff,	)	C.A. NO.: N23C-05-001 JJC
	)	
v.	)	
	)	
CHRISTIANA HOSPITAL, DR. SHAH MARIA AND DR. SCHUH MICHAEL,	)	TRIAL BY JURY OF TWELVE DEMANDED
	)	
Defendants.	)	

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT DR. MARIA SHAH'S MOTION FOR SUMMARY JUDGMENT

PLAINTIFF'S MEMORANDUM IN OPPOSITION

Plaintiff Khaled Fardjallah, respectfully submits this opposition to Defendant Dr. Maria Shah's Motion for Summary Judgment, as follows:

I. PRELIMINARY STATEMENT

This medical malpractice action presents genuine issues of material fact regarding:

1. Whether Dr. Shah breached the standard of care in managing Plaintiff's IV site complications during his COVID-19 hospitalization (October 21 - November 3, 2021)

2. Whether such breaches proximately caused Plaintiff's subsequent septic arthritis and permanent hand impairment

3. Whether Plaintiff's expert testimony sufficiently establishes these claims under 18 Del. C. § 6853

II. STATEMENT OF DISPUTED MATERIAL FACTS

1. IV Site Complications during Hospitalization:

- Plaintiff reported increasing pain/swelling at his right hand IV site beginning October 29, 2021 (Hospital Records, Tab A, pp. 12-14)
- Nursing notes document erythema and induration at the IV site (Id. at p. 15)
- No infectious disease consult was ordered despite Plaintiff's immunocompromised status (Discharge Summary, Tab B)

2. Inadequate Discharge Planning:

Dr. Shah discharged Plaintiff on November 3 without:

a) Documenting IV site examination

b) Providing wound care instructions

c) Scheduling follow-up for infection monitoring (Discharge Summary, Tab B)

3. Subsequent Clinical Course:

- Within 48 hours of discharge, Plaintiff developed severe hand cellulitis (ED Records 11/5/21, Tab C)
- MRI ultimately confirmed septic arthritis (12/8/21 Imaging Report, Tab D)

III. ARGUMENT

A. Genuine Disputes Regarding Standard of Care Violations

1. Dr. Shah owed Plaintiff a duty to:

- Properly monitor high-risk IV sites in a COVID patient
- Evaluate and document infection symptoms
- Provide appropriate discharge instructions

2. The record contains competing evidence about whether Dr. Shah:

- Performed adequate IV site assessments (Compare Nursing Notes, Tab A with Dr. Shah's Depo. at 45:3-10)
- Appropriately documented clinical findings (Missing IV Site Exam in Discharge Summary, Tab B)
- Addressed infection risks for a diabetic patient (ID Expert Report, Tab E, ¶8)

B. Plaintiff's Expert Evidence Satisfies 18 Del. C. § 6853

1. Dr. Olewiler's report creates factual disputes by stating:

"While initial IV removal was appropriate, the failure to monitor for subsequent infection in this high-risk patient fell below the standard of care." (Expert Report, Tab F, p.4)

2. His causation opinion - that earlier intervention could have prevented joint destruction - is sufficiently stated under Delaware law. See Moulder, 2022 Del. Super. LEXIS 795 at 15(Sept.29, 2022)

C. Temporal Proximity Supports Causation

1. The rapid clinical deterioration (infection evident within 48 hours of discharge) permits a reasonable inference that:

- The infectious process began during hospitalization
- Earlier intervention might have altered the outcome (ID Expert Report, Tab F, ¶12)

SUMMARY OF STATEMENT

I. STATEMENT OF FACTS

A. Timeline of Care:

While it is true that Dr. Shah was not involved in Plaintiff's care after November 3, 2021, her failure to diagnose and probably manage the developing infection during her treatment of Plaintiff on November 2-3, 2021 constituted the proximate cause initiating the chain of subsequent medical failures. Hospital records demonstrate that Plaintiff complained of swelling and pain at the IV site during his hospitalization, symptoms that required immediate intervention.

B. Expert Testimony:

Contrary to Defendant's assertions, Dr. Olewiler did not state that the initial care was categorically appropriate. Rather, he indicated that "the initial care up to 11/5 was reasonable" (Exhibit C, p. 2), while focusing his criticisms on the subsequent period. This does not absolve Dr. Shah of responsibility for failing to conduct an adequate assessment of potential infection during Plaintiff's hospitalization.

II. ILEGAL ARGUMENT

A. Standard of Care:

Superior Court Civil Rule 56(c) provides that summary judgment is inappropriate when genuine issues of material fact exist. In this case:

1. Evidence shows Dr. Shah failed to recognize early signs of infection;

2. Hospital records document symptom progression during Plaintiff's stay;

3. Dr. Olewiler noted the infection likely began during hospitalization and worsened due to inadequate intervention.

B. Causation:

Even assuming arguendo that Dr. Shah did not breach the standard of care (which Plaintiff disputes), her omissions contributed to the deterioration of Plaintiff's condition. Imaging reports demonstrate the infection's progression from simple phlebitis to severe septic arthritis.

C. Expert Evidence:

Plaintiff relies on:

1. Dr. Olewiler's report indicating infection began during hospitalization;

2. Reports from other physicians (including orthopedic specialists) confirming ongoing injury resulting from initial negligence;

3. Hospital documentation showing symptom development.

WHEREFORE, Plaintiff requests denial of the Motion because:

A. Genuine issues exist regarding whether Dr. Shah breached the standard of care;

B. Dr. Olewiler's testimony does not completely exonerate Dr. Shah as claimed;

C. Medical evidence demonstrates continuous injury progression originating from Dr. Shah's care period.

CONCLUSION

For these reasons, Plaintiff respectfully requests the Court deny Defendant Shah's Motion for Summary Judgment in its entirety and permit this matter to proceed to trial.

Respectfully submitted this April 21, 2025

Khaled Fadjallah (Pro So)

117 Stature Dr Newark, DE 19713

267 595 9546

f.arsalen@gmail.com

Khaled Fardjallah.

EFiled: Apr 22 2025 02:19PM EDT
Transaction ID 76125080
Case No. N23C-05-001 JJC

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

KHALED FARDJALLAH,	)	
	)	
Plaintiff,	)	C.A. NO.: N23C-05-001 JJC
	)	
v.	)	
	)	
CHRISTIANA HOSPITAL, DR. SHAH MARIA AND DR. SCHUH MICHAEL,	)	TRIAL BY JURY OF TWELVE DEMANDED
	)	
Defendants.	)	

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT DR. MARIA SHAH'S MOTION FOR SUMMARY JUDGMENT

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1. Dr. Olewiler's report creates factual disputes by stating:

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C. Medical evidence demonstrates continuous injury progression originating from Dr. Shah's care period.

CONCLUSION

For these reasons, Plaintiff respectfully requests the Court deny Defendant Shah's Motion for Summary Judgment in its entirety and permit this matter to proceed to trial.

Respectfully submitted this April 21, 2025

Khaled Fadjallah (Pro So)

117 Stature Dr Newark, DE 19713

267 595 9546

f.arsalen@gmail.com

Khaled Fardjallah.

Civil Judicial Action Form

EFiled: Aug 15 2025 11:47AM EDT
Transaction ID 76871205
Case No. N23C-05-001 JJC

Civil Action No.:	N23C-05-001 JJC	***Date:***	August 15, 2025	
Case Caption:	Fardjallah v. Christiana Hospital et al			
Judicial Officer:	**RJ Clark**	Green-Streett	Primos	Freud
Proceeding:	Scheduling Conf.			
	Office Conference:			
	Motions:	Zoom Oral Argument on the pending Motions for Summary Judgment.		
	Other:			
Action Taken:	Approved	Denied	Cont.	Dismissed
	Decision Reserved (Written Decision to Follow)	**Other**		
Notes:	Zoom Oral Argument on the pending Motions for Summary Judgment was heard before Resident Judge Clark on August 15, 2025. Pro Se Plaintiff failed to appear. **Decision Reserved** for the reasons stated on the record. The Court will allow the parties to supplement the record and the Court will decide on the papers. Simultaneous submissions are due by close of business on **August 29, 2025.**			

Plaintiff's Attorney:	Pro Se Plaintiff failed to appear. Appeared Interpreter Ibrahim Dalo.		***Defendant's Attorney:***	Phillip M. Casale, Esq.		
Case Manager:	**EP**					
Bailiff:	Robinson	Rubin	Welch	Rivera	Finch	Stanton
Court Reporter:	MP (ECR)	**AR (ECR)**	HH (ECR)			
FTR Gold:	***Start:***	9:13 a.m.	***End:***	9:18 a.m.		
Courtroom:	Recorded by ECR in Courtroom #1		***Law Clerk:***			

EFiled: Sep 15 2025 01:13PM EDT
Transaction ID 77077193
Case No. N23C-05-001 JJC

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

KHALED FARDJALLAH,	)	
	)	
Plaintiff,	)	C.A. NO.: N23C-05-001 JJC
	)	
v.	)	
	)	
CHRISTIANA HOSPITAL, DR. SHAH MARIA AND DR. SCHUH MICHAEL,	)	TRIAL BY JURY OF TWELVE DEMANDED
	)	
Defendants.	)	

PLAINTIFF'S SUMMARY OF CRITICAL EVIDENCE WITHHELD BY DEFENDANT

Plaintiff, Khaled Fardiallah, pursuant to this Court's authority to manage discovery, submits this summary to identify key evidence within Defendant's belated production (Exhibit G) that demonstrates discovery violations and directly contradicts Defendant's defenses and expert opinions.

I. DEFENDANT'S BELATED PRODUCTION (EXHIBIT G)

Defendant failed to produce 635 pages of critical records during initial discovery, disclosing them only after Plaintiff's persistent demands. This collection, marked as **Exhibit G**, proves Defendant had possession of these records all along and their initial concealment was willful. Key documents include:

- **G-15 (p. 15): Nursing Note dated October 29, 2021** - Documents "significant swelling and redness at IV site" and "patient reports 8/10 pain." **Directly contradicts Defendant's claim that no signs of infection were present during hospitalization.**
- **G-32 (p. 32): Lab Results dated October 30, 2021** - Shows elevated white blood cell count (WBC). **This objective data indicates a developing**

infection days before discharge, which Defendant's expert never considered.

- **G-44 (p. 44): Hospital Protocol for Diabetic Patients with IV Lines** - Establishes the standard of care for monitoring patients like Plaintiff, which was not followed.
- **G-78 (p. 78): Medication Administration Record** - Shows no antibiotics were administered until November 7, 2021. **Proves the critical delay in treatment, a central element of negligence.**
- **G-102 (p. 102): Follow-up Note dated November 4, 2021** - Confirms Plaintiff was discharged with unresolved symptoms related to the IV site.

II. CONTRADICTION OF DEFENSE EXPERT'S OPINIONS

Defendant's expert, Dr. Moran, claimed to have reviewed "all relevant records" and opined that "all care was reasonable." However, **Exhibit G** proves this is false:

- **The expert's opinion is based on an incomplete record.** He did not review **G-15, G-32, G-78, or G-102** before forming his conclusions.
- **His key conclusions are indefensible in light of the full record.** The nursing notes (**G-15**) and lab results (**G-32**) prove signs of infection were present and documented, contradicting his assertion that no signs existed.
- **The failure to produce these records initially constitutes spoliation and bad faith.** An adverse inference is warranted, instructing the jury that these records would have proven negligence.

III. PATTERN OF CONCEALMENT

The belated production of **Exhibit G** is part of a pattern of withholding evidence. Other critical evidence Plaintiff obtained includes:

- **Exhibit A-15:** Previously produced nursing note that also documented early signs of infection, further corroborating the evidence in **G-15**.

- **Exhibit B (ED Records):** Documents the severe progression of the infection by November 6, 2021, which was inevitable given the lack of treatment documented in **G-78**.

CONCLUSION

Defendant's attempt to conceal Exhibit G and then misrepresent their expert's review process is a severe abuse of the judicial system. This summary provides a roadmap to the most critical evidence withheld by Defendant. Plaintiff requests that the Court consider this summary when evaluating Plaintiff's Motion for Sanctions and Opposition to Summary Judgment.

Respectfully submitted this September 8, 2025

Khaled Fadjallah (Pro So)

117 Stature Dr Newark, DE 19713

267 595 9546

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

KHALED FARDJALLAH,	)	
	)	
Plaintiff,	)	C.A. NO.: N23C-05-001 JJC
	)	
v.	)	
	)	
CHRISTIANA HOSPITAL, DR. SHAH MARIA AND DR. SCHUH MICHAEL,	)	TRIAL BY JURY OF TWELVE DEMANDED
	)	
Defendants.	)	

Khaled Fardjallah.

v.

Christiana Hospital, Dr. Shah Mria and Dr. Schuh Micheal.

C.A. No: N23C-05-001 JJC.

AFFIDAVIT OF KHALED FARDIALLAH

I, *Khaled Fardjallah*, being first duly sworn, hereby depose and state as follows:

1. I am over the age of eighteen (18) years, competent to testify to the matters stated herein, and have personal knowledge of the facts set forth in this affidavit.
2. I was hospitalized at Christiana Hospital from October 21, 2021, to November 3, 2021, for treatment of COVID-19.
3. During my hospitalization, an intravenous (IV) line was placed in my right hand. I began experiencing significant pain, redness, and swelling at the IV site around October 28, 2021. I reported this pain and visual symptoms to multiple nurses and staff members on a daily basis until the IV was removed on October 29, 2021.
4. The pain in my hand and wrist continued to worsen after the IV was removed. I again reported this increasing pain to hospital staff before my discharge on November 3, 2021. Despite my reports, I was discharged without any specific treatment or follow-up plan for my hand.
5. The pain became unbearable. On November 6, 2021, I went to the Emergency Department at Christiana Hospital where I reported my pain level as 10 out of 10. The medical record from that visit (*Exhibit B*) accurately reflects my reported pain and the visible condition of my hand.
6. I have personally reviewed the photographs attached as *Exhibit E*. These photographs were taken by me on November 7, 2021, and they accurately depict the severe swelling, redness, and discoloration of my right hand and wrist at that time.

1

7. I have reviewed the expert report of Dr. Olewiler *(Exhibit C)*. To the best of my knowledge, his description of my medical condition, treatment, and the timeline of events is accurate. His report correctly states that he reviewed my complete medical record.
8. I have also reviewed the IDSA Guidelines *(Exhibit F)*. I believe the care I received, particularly the failure to address the obvious signs of infection in a diabetic patient and the delay in providing appropriate antibiotics and imaging, violated these established standards.
9. I confirm that all documents and images submitted as exhibits in this case *(Exhibits A through H)* are true and accurate copies of the original records and materials. The personal photographs of my condition *(Exhibit E)* were taken by me personally and accurately reflect the progression and deterioration of my right hand as I witnessed and experienced it during that period.
10. The permanent damage to my right hand has significantly impacted my life. I suffer from chronic pain, limited mobility, and an inability to perform my previous job or daily activities as I could before this incident.
11. I make this affidavit in support of my Opposition to Defendants' Motion for Summary Judgment and in support of my requests to exclude expert testimony and for sanctions. I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief.

FURTHER AFFIANT SAYETH NAUGHT.

SWORN TO and SUBSCRIBED before me
this 8th day of September, 2025.

Khaled Farkjallah

Notary Public Yara S Del Rosario
My Commission Expires: April, 14 2027

YARA S DEL ROSARIO
Notary Public
State of Delaware
My Commission Expires on Apr 14, 2027

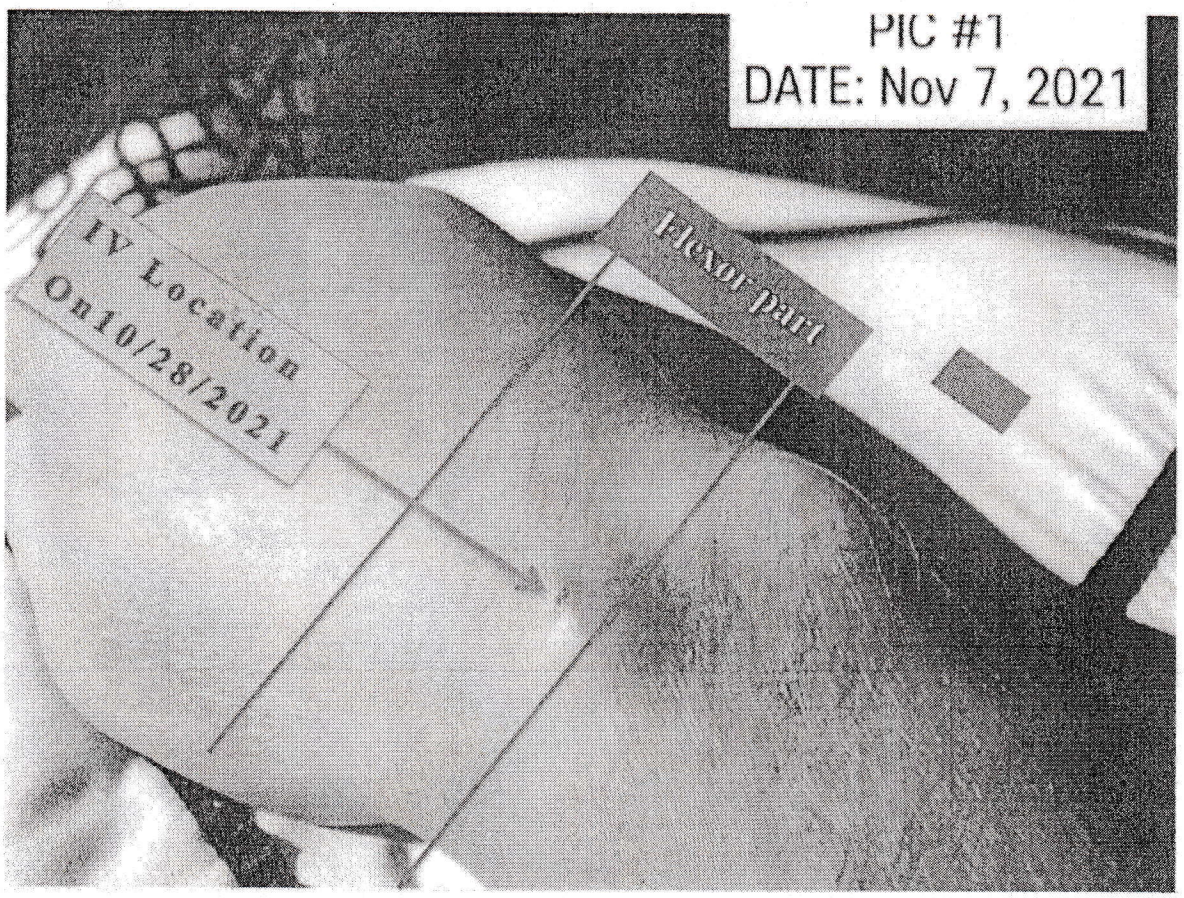
EFiled: Sep 15 2025 01:13PM EDT
Transaction ID 77077193
Case No. N23C-05-001 JJC

EXHIBIT E

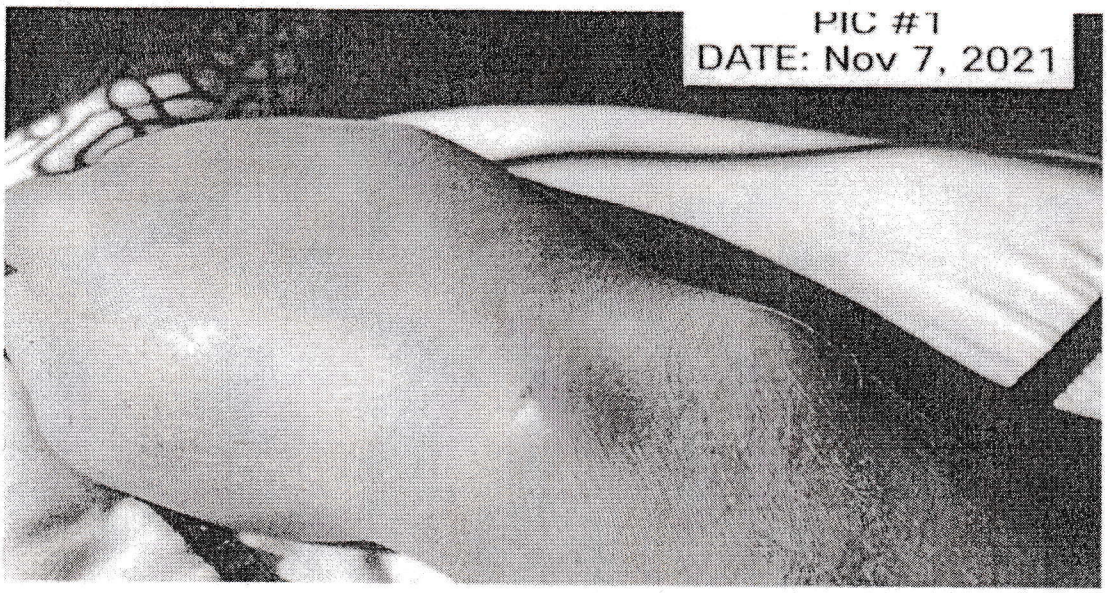
EXHIBIT E-1

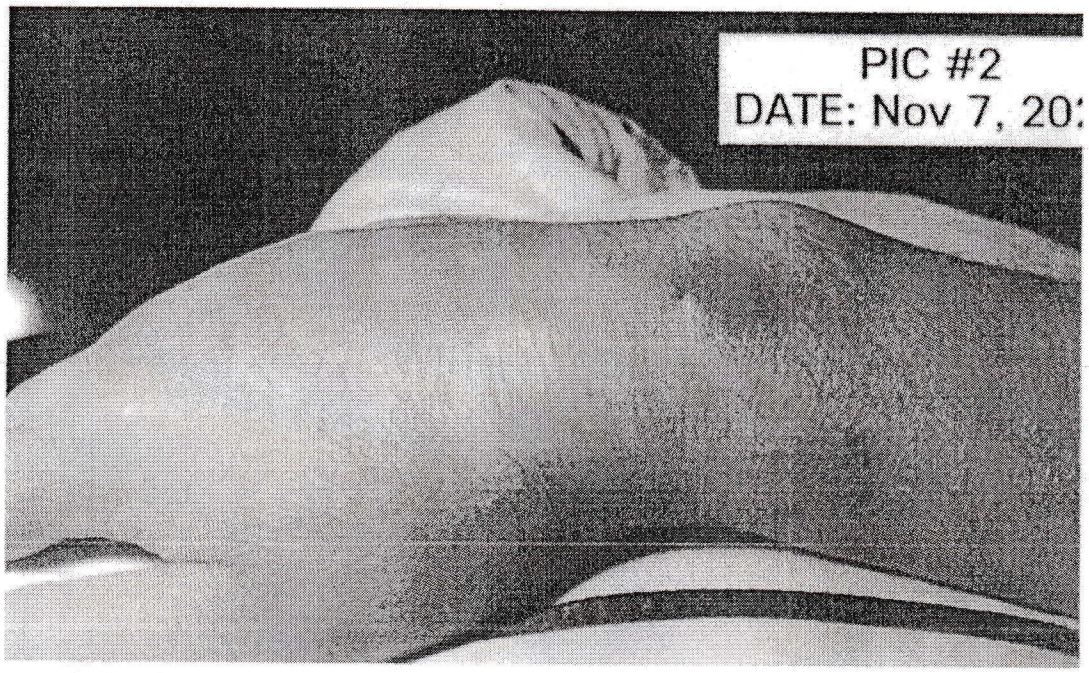
PHOTOS:

1. Picture number 1 dated on 11/07/2021 shows the location of IV where the nurse put it on 10/28/2021 in the flexor part

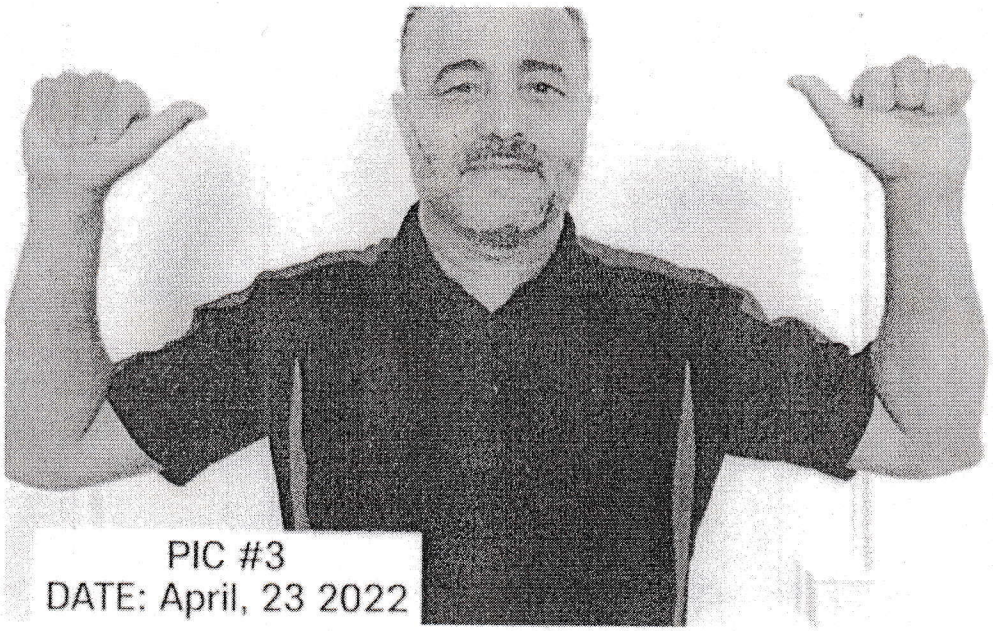


2. Pictures number 1 and number 2 dated on 11/07/21. Shows Swelling, Redness, Suppuration, Rot and Rigorist.

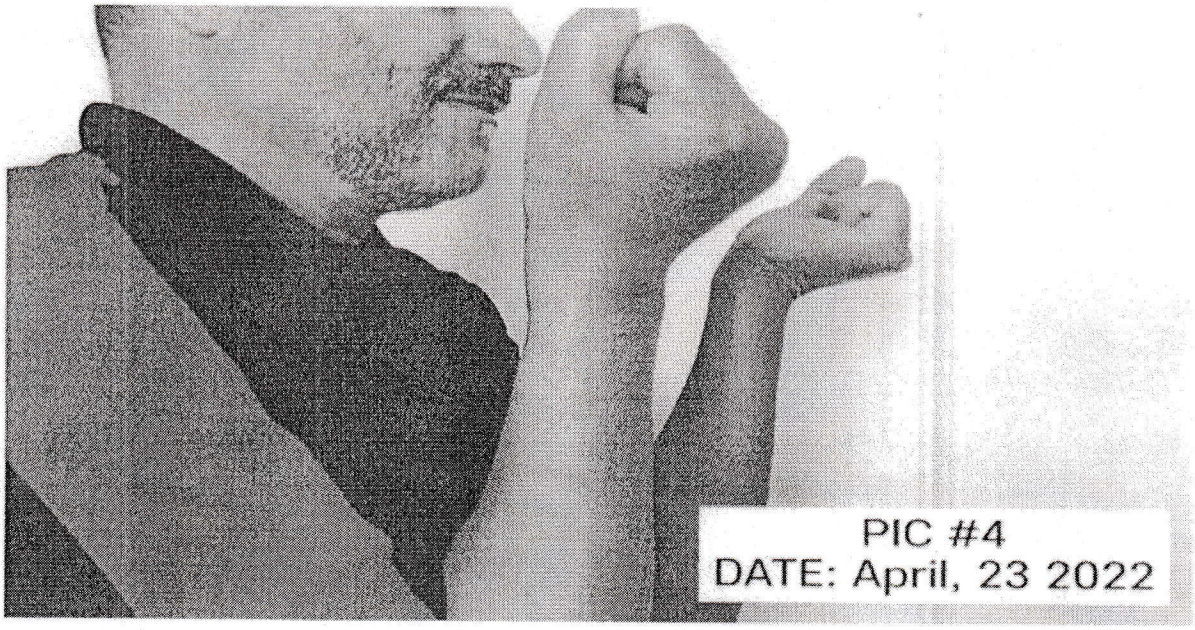




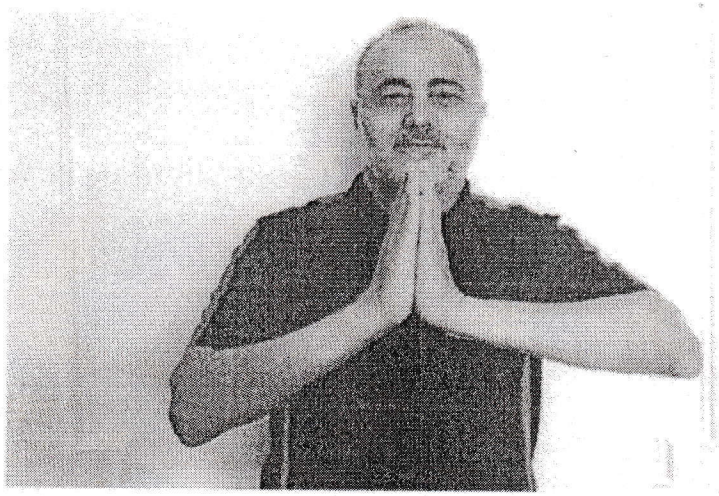
3. Picture number 3 date on 04/23/22 to Present. Shows the distance to DPC on the right hand comparing by the left hand. In addition I have stiffness all time and I cannot make fist.



4. Pictures number 4 dated on 04/23/22 to Present. Shows miss extension and flexion comparing right hand by the left.



5. Pictures number 5 and number 6 dated on 04/23/22 to Present. Shows the swelling at the wrist and the stiffness limited the movement of my right hand.



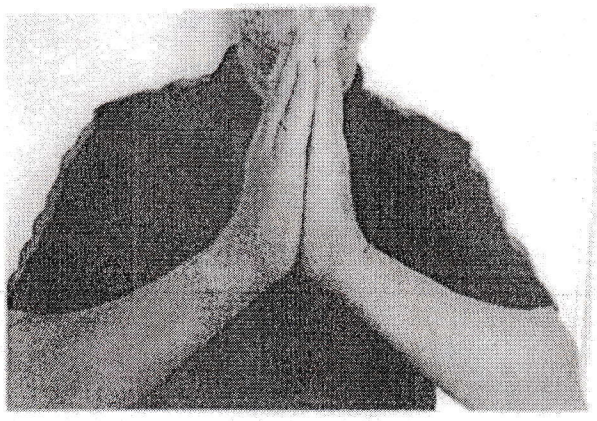


EXHIBIT E -2

RIGHT HAND EVALUATIONS NUMBERS

NUMBERS

1. The pain on my right hand was unbearable (it was 10 out 10 as scale) on November5, 2021. However after the infection is gone my right hand still painful (it is 5 out 10 as scale)

Pain Table: (Date and Scale)

From	To	Scale
11/05/2021	11/20/2021	10/10
11/20/2021	12/28/2021	7-8/10
12/28/2021	01/24/2022	6/10
01/24/2022	Present	3-5/10

2. I lost fifty three percent (53 %) of movements of my right hand; I cannot make a fist and it is still swelling at the wrist as shown in the pictures.

Percentages of lost table:

The recertification note from **Rise Physical Therapy** shows the measurements between the left and the right hand on 01/24/2022 and 02/14/2022 after exercising my right hand three times per week for two hours during that time

Measurements	01/24/2022		02/14/2022		(%) of Lost 02/14/22 - present
	Left Hand	*Right Hand*	*Left Hand*	*Right Hand*	
Circumference	16.4 cm	**17 cm**	16.4 cm	**17 cm**	4%
Wrist extension	76 deg.	**46 deg.**	76 deg.	**46 deg.**	49%
Wrist flexion	79 deg.	**20 deg.**	79 deg.	**36 deg.**	75%
Distance to DPC	All Fingers <0.1	**2.5/1.2/1.1/1.2**	All Fingers <0.1	**1.0/1.0/0.6/0.5**	172%
Thumb MP	82	**75**	82	**76**	8%
Thumb IP	71	**32**	71	**66**	7%
Power Grip/Pinch	45 lbs.	**8 lbs.**	45 lbs.	**20 lbs.**	57%

Average Percentages of Lost (02/14/2022 - Present) = 53

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EXHIBIT F

IDSA GUIDELINE

Practice Guidelines for the Diagnosis and Management of Skin and Soft Tissue Infections: 2014 Update by the Infectious Diseases Society of America

Dennis L. Stevens,[1] Alan L. Bisno,[2] Henry F. Chambers,[3] E. Patchen Dellinger,[4] Ellie J. C. Goldstein,[5] Sherwood L. Gorbach,[6] Jan V. Hirschmann,[7] Sheldon L. Kaplan,[8] Jose G. Montoya,[9] and James C. Wade[10]

[1]Division of Infectious Diseases, Department of Veterans Affairs, Boise, Idaho; [2]Medical Service, Miami Veterans Affairs Health Care System, Florida; [3]San Francisco General Hospital, University of California; [4]Division of General Surgery, University of Washington, Seattle; [5]University of California, Los Angeles, School of Medicine, and R. M. Alden Research Laboratory, Santa Monica, California; [6]Department of Community Health, Tufts University, Boston, Massachusetts; [7]Medical Service, Puget Sound Veterans Affairs Medical Center, Seattle, Washington; [8]Department of Pediatrics, Baylor College of Medicine, Houston, Texas; [9]Department of Medicine, Stanford University, California; and [10]Geisinger Health System, Geisinger Cancer Institute, Danville, Pennsylvania

A panel of national experts was convened by the Infectious Diseases Society of America (IDSA) to update the 2005 guidelines for the treatment of skin and soft tissue infections (SSTIs). The panel's recommendations were developed to be concordant with the recently published IDSA guidelines for the treatment of methicillin-resistant *Staphylococcus aureus* infections. The focus of this guideline is the diagnosis and appropriate treatment of diverse SSTIs ranging from minor superficial infections to life-threatening infections such as necrotizing fasciitis. In addition, because of an increasing number of immunocompromised hosts worldwide, the guideline addresses the wide array of SSTIs that occur in this population. These guidelines emphasize the importance of clinical skills in promptly diagnosing SSTIs, identifying the pathogen, and administering effective treatments in a timely fashion.

EXECUTIVE SUMMARY

Summarized below are the recommendations made in the new guidelines for skin and soft tissue infections (SSTIs). Figure 1 was developed to simplify the management of localized purulent staphylococcal infections such as skin abscesses, furuncles, and carbuncles in the age of methicillin-resistant *Staphylococcus aureus* (MRSA). In addition, Figure 2 is provided to simplify the approach to patients with surgical site infections. The panel followed a process used in the development of other Infectious Diseases Society of America (IDSA) guidelines, which included a systematic weighting of the strength of recommendation and quality of evidence using the GRADE (Grading of Recommendations Assessment, Development, and Evaluation) system (Table 1) [1–4]. A detailed description of the methods, background, and evidence summaries that support each of the recommendations can be found in the full text of the guidelines.

Received 17 April 2014; accepted 21 April 2014.

It is important to realize that guidelines cannot always account for individual variation among patients. They are not intended to supplant physician judgment with respect to particular patients or special clinical situations. IDSA considers adherence to these guidelines to be voluntary, with the ultimate determination regarding their application to be made by the physician in the light of each patient's individual circumstances.

Correspondence: Dennis L. Stevens, PhD, MD, Infectious Diseases Section, VA Medical Center, 500 W Fort St, Bldg 46, Boise, ID 83702 (dlstevens@mindspring.com).

Clinical Infectious Diseases 2014;59(2):e10–52

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DOI: 10.1093/cid/ciu296

1. What Is Appropriate for the Evaluation and Treatment of Impetigo and Ecthyma?

Recommendations

1. Gram stain and culture of the pus or exudates from skin lesions of impetigo and ecthyma are

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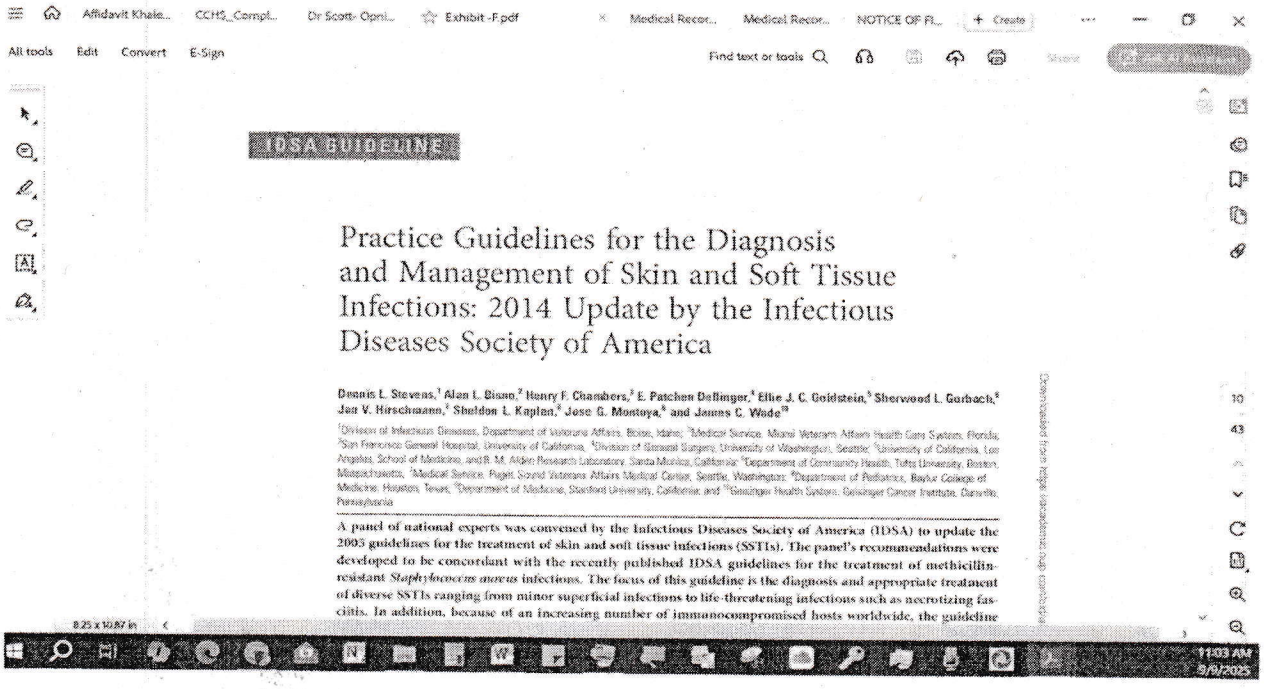

IDSA GUIDELINE

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[1]Division of Infectious Diseases, Department of Veterans Affairs, Boise, Idaho; [2]Medical Service, Miami Veterans Affairs Health Care System, Florida; [3]San Francisco General Hospital, University of California; [4]Division of General Surgery, University of Washington, Seattle; [5]University of California, Los Angeles, School of Medicine, and R. M. Alden Research Laboratory, Santa Monica, California; [6]Department of Community Health, Tufts University, Boston, Massachusetts; [7]Medical Service, Puget Sound Veterans Affairs Medical Center, Seattle, Washington; [8]Department of Pediatrics, Baylor College of Medicine, Houston, Texas; [9]Department of Medicine, Stanford University, California; and [10]Geisinger Health System, Geisinger Cancer Institute, Danville, Pennsylvania

A panel of national experts was convened by the Infectious Diseases Society of America (IDSA) to update the 2005 guidelines for the treatment of skin and soft tissue infections (SSTIs). The panel's recommendations were developed to be concordant with the recently published IDSA guidelines for the treatment of methicillin-resistant *Staphylococcus aureus* infections. The focus of this guideline is the diagnosis and appropriate treatment of diverse SSTIs ranging from minor superficial infections to life-threatening infections such as necrotizing fasciitis. In addition, because of an increasing number of immunocompromised hosts worldwide, the guideline

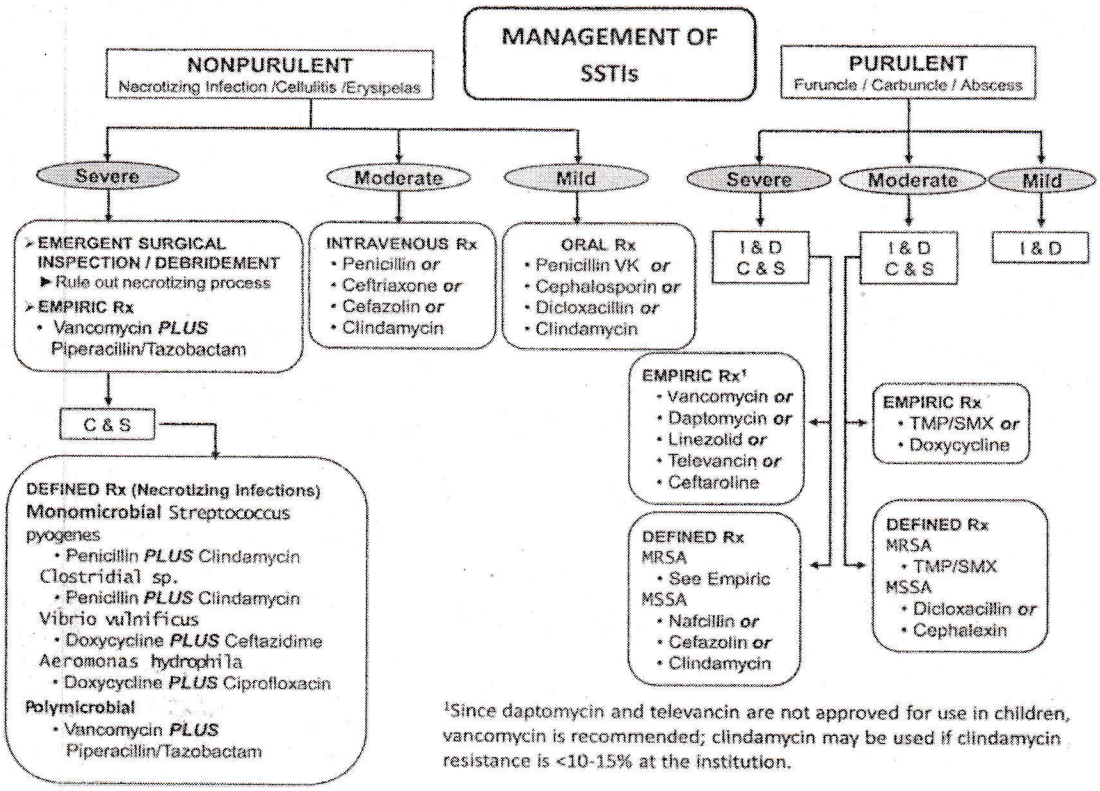

Figure 1. Purulent skin and soft tissue infections (SSTIs). Mild infection: for purulent SSTI, incision and drainage is indicated. Moderate infection: patients with purulent infection with systemic signs of infection. Severe infection: patients who have failed incision and drainage plus oral antibiotics or those with systemic signs of infection such as temperature >38°C, tachycardia (heart rate >90 beats per minute), tachypnea (respiratory rate >24 breaths per minute) or abnormal white blood cell count (<12 000 or <400 cells/μL), or immunocompromised patients. Nonpurulent SSTIs. Mild infection: typical cellulitis/erysipelas with no focus of purulence. Moderate infection: typical cellulitis/erysipelas with systemic signs of infection. Severe infection: patients who have failed oral antibiotic treatment or those with systemic signs of infection (as defined above under purulent infection), or those who are immunocompromised, or those with clinical signs of deeper infection such as bullae, skin sloughing, hypotension, or evidence of organ dysfunction. Two newer agents, tedizolid and dalbavancin, are also effective agents in SSTIs, including those caused by methicillin-resistant *Staphylococcus aureus*, and may be approved for this indication by June 2014. Abbreviations: C & S, culture and sensitivity; I & D, incision and drainage; MRSA, methicillin-resistant *Staphylococcus aureus*; MSSA, methicillin-susceptible *Staphylococcus aureus*; Rx, treatment; TMP/SMX, trimethoprim-sulfamethoxazole.

recommended to help identify whether *Staphylococcus aureus* and/or a β-hemolytic *Streptococcus* is the cause (strong, moderate), but treatment without these studies is reasonable in typical cases (strong, moderate).

2. Bullous and nonbullous impetigo can be treated with oral or topical antimicrobials, but oral therapy is recommended for patients with numerous lesions or in outbreaks affecting several people to help decrease transmission of infection. Treatment for ecthyma should be an oral antimicrobial.

(a) Treatment of bullous and nonbullous impetigo should be with either mupirocin or retapamulin twice daily (bid) for 5 days (strong, high).

(b) Oral therapy for ecthyma or impetigo should be a 7-day regimen with an agent active against *S. aureus* unless cultures yield streptococci alone (when oral penicillin is the recommended agent) (strong, high). Because *S. aureus* isolates from impetigo and ecthyma are usually methicillin susceptible, dicloxacillin or cephalexin is recommended. When MRSA is suspected or confirmed, doxycycline, clindamycin, or sulfamethoxazole-trimethoprim (SMX-TMP) is recommended (strong, moderate).

(c) Systemic antimicrobials should be used for infections during outbreaks of poststreptococcal glomerulonephritis to help eliminate nephritogenic strains of *S. pyogenes* from the community (strong, moderate).

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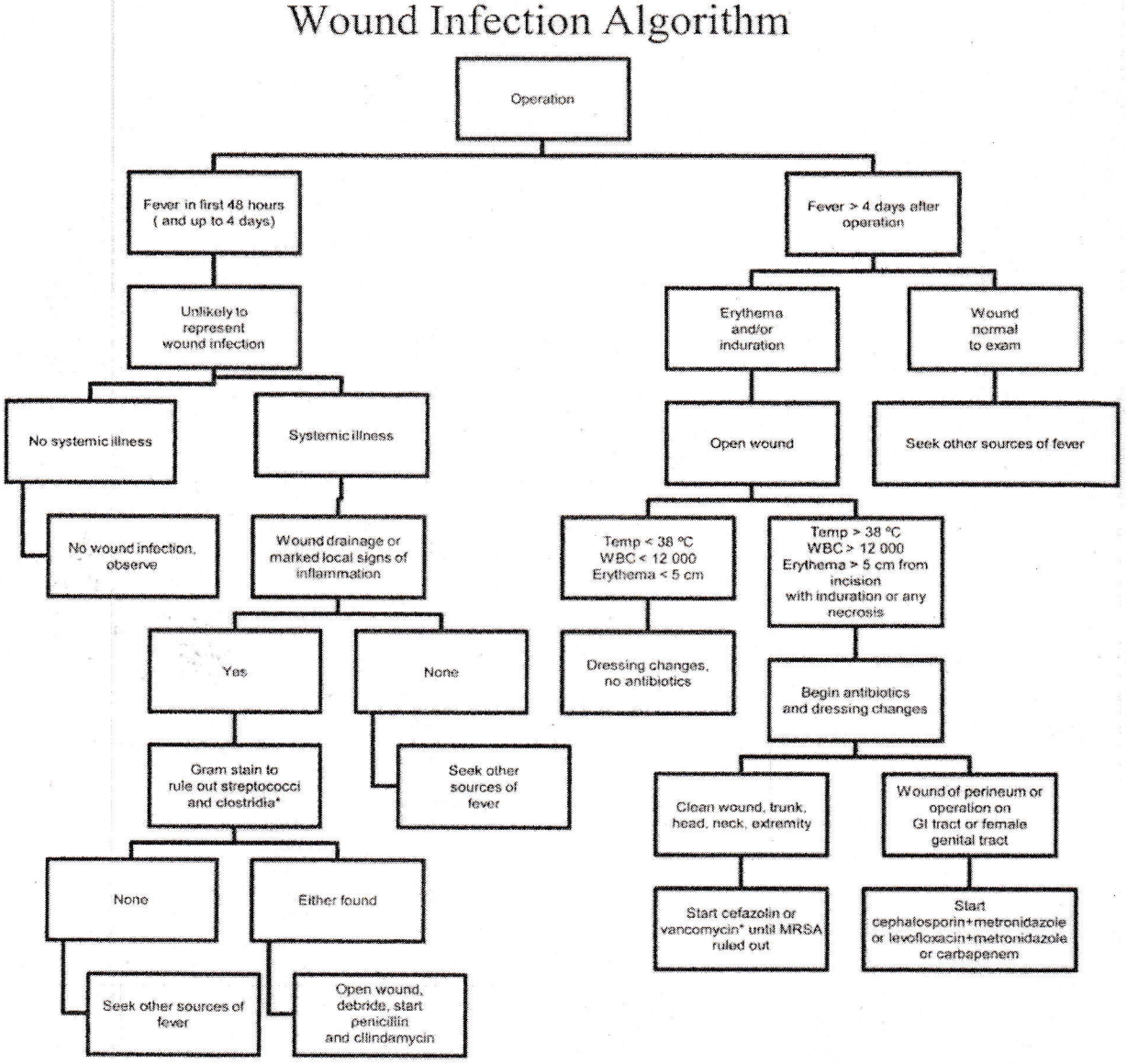
Wound Infection Algorithm
Operation
Fever in first 48 hours (and up to 4 days)
Fever > 4 days after operation
Unlikely to represent wound infection
Erythema and/or induration
Wound normal to exam
No systemic illness
Systemic illness
Open wound
Seek other sources of fever
No wound infection, observe
Wound drainage or marked local signs of inflammation
Temp < 38 °C WBC < 12 000 Erythema < 5 cm
Temp > 38 °C WBC > 12 000 Erythema > 5 cm from incision with induration or any necrosis
Yes
None
Dressing changes, no antibiotics
Begin antibiotics and dressing changes
Gram stain to rule out streptococci and clostridia*
Seek other sources of fever
Clean wound, trunk, head, neck, extremity
Wound of perineum or operation on GI tract or female genital tract
None
Either found
Start cefazolin or vancomycin* until MRSA ruled out
Start cephalosporin+metronidazole or lewofloxacin+metronidazole or carbapenem
Seek other sources of fever
Open wound, debride, start penicillin and clindamycin

Figure 2. Algorithm for the management and treatment of surgical site infections (SSIs). *For patients with type 1 (anaphylaxis or hives) allergy to β-lactam antibiotics. If Gram stain not available, open and debride if purulent drainage present. Where the rate of infection with methicillin-resistant *Staphylococcus aureus* infection is high, consider vancomycin, daptomycin, or linezolid, pending results of culture and susceptibility tests. Adapted and modified with permission from Dellinger et al [96]. Abbreviations: GI, gastrointestinal; MRSA, methicillin-resistant *Staphylococcus aureus*; WBC, white blood cell count.

II. What Is the Appropriate Evaluation and Treatment for Purulent SSTIs (Cutaneous Abscesses, Furuncles, Carbuncles, and Inflamed Epidermoid Cysts)?

Recommendations

3. Gram stain and culture of pus from carbuncles and abscesses are recommended, but treatment without these studies is reasonable in typical cases (strong, moderate).

4. Gram stain and culture of pus from inflamed epidermoid cysts are not recommended (strong, moderate).

5. Incision and drainage is the recommended treatment for inflamed epidermoid cysts, carbuncles, abscesses, and large furuncles, mild (Figure 1) (strong, high).

6. The decision to administer antibiotics directed against *S. aureus* as an adjunct to incision and drainage should be

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Table 1. Strength of Recommendations and Quality of the Evidence

Strength of Recommendation and Quality of Evidence	Clarity of Balance Between Desirable and Undesirable Effects	Methodological Quality of Supporting Evidence (Examples)	Implications
Strong recommendation, high-quality evidence	Desirable effects clearly outweigh undesirable effects, or vice versa	Consistent evidence from well-performed RCTs or exceptionally strong evidence from unbiased observational studies	Recommendation can apply to most patients in most circumstances. Further research is unlikely to change our confidence in the estimate of effect
Strong recommendation, moderate quality evidence	Desirable effects clearly outweigh undesirable effects, or vice versa	Evidence from RCTs with important limitations (inconsistent results, methodological flaws, indirect, or imprecise) or exceptionally strong evidence from unbiased observational studies	Recommendation can apply to most patients in most circumstances. Further research (if performed) is likely to have an important impact on our confidence in the estimate of effect and may change the estimate
Strong recommendation, low-quality quality evidence	Desirable effects clearly outweigh undesirable effects, or vice versa	Evidence for at least 1 critical outcome from observational studies, RCTs with serious flaws or indirect evidence	Recommendation may change when higher-quality evidence becomes available. Further research (if performed) is likely to have an important impact on our confidence in the estimate of effect and is likely to change the estimate
Strong recommendation, very low-quality evidence (very rarely applicable)	Desirable effects clearly outweigh undesirable effects, or vice versa	Evidence for at least 1 critical outcome from unsystematic clinical observations or very indirect evidence	Recommendation may change when higher-quality evidence becomes available; any estimate of effect for at least 1 critical outcome is very uncertain.
Weak recommendation, high-quality evidence	Desirable effects closely balanced with undesirable effects	Consistent evidence from well-performed RCTs or exceptionally strong evidence from unbiased observational studies	The best action may differ depending on circumstances or patient's or societal values. Further research is unlikely to change our confidence in the estimate of effect
Weak recommendation, moderate-quality evidence	Desirable effects closely balanced with undesirable effects	Evidence from RCTs with important limitations (inconsistent results, methodological flaws, indirect, or imprecise) or exceptionally strong evidence from unbiased observational studies	Alternative approaches likely to be better for some patients under some circumstances. Further research (if performed) is likely to have an important impact on our confidence in the estimate of effect and may change the estimate
Weak recommendation, low-quality evidence	Uncertainty in the estimates of desirable effects, harms, and burden; desirable effects, harms, and burden may be closely balanced	Evidence for at least 1 critical outcome from observational studies, from RCTs with serious flaws or indirect evidence	Other alternatives may be equally reasonable. Further research is very likely to have an important impact on our confidence in the estimate of effect and is likely to change the estimate
Weak recommendation, very low-quality evidence	Major uncertainty in the estimates of desirable effects, harms, and burden; desirable effects may or may not be balanced with undesirable effects	Evidence for at least 1 critical outcome from unsystematic clinical observations or very indirect evidence	Other alternatives may be equally reasonable. Any estimate of effect, for at least 1 critical outcome, is very uncertain

Abbreviation: RCT, randomized controlled trial.

made based upon presence or absence of systemic inflammatory response syndrome (SIRS), such as temperature >38°C or <36°C, tachypnea >24 breaths per minute, tachycardia >90 beats per minute, or white blood cell count >12 000 or <400 cells/μL (moderate; Figure 1) (strong, low). An antibiotic active against MRSA is recommended for patients with carbuncles or abscesses who have failed initial antibiotic treatment or have markedly impaired host defenses or in patients with SIRS and hypotension (severe; Figure 1 and Table 2) (strong, low).

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Table 2. Antimicrobial Therapy for Staphylococcal and Streptococcal Skin and Soft Tissue Infections

Disease Entity	Antibiotic	Dosage, Adults	Dosage, Children[a]	Comment
Impetigo[b] (*Staphylococcus* and *Streptococcus*)	Dicloxacillin	250 mg qid po	N/A	N/A
	Cephalexin	250 mg qid po	25–50 mg/kg/d in 3–4 divided doses po	N/A
	Erythromycin	250 mg qid po[c]	40 mg/kg/d in 3–4 divided doses po	Some strains of *Staphylococcus aureus* and *Streptococcus pyogenes* may be resistant.
	Clindamycin	300–400 mg qid po	20 mg/kg/d in 3 divided doses po	N/A
	Amoxicillin-clavulanate	875/125 mg bid po	25 mg/kg/d of the amoxicillin component in 2 divided doses po	N/A
	Retapamulin ointment	Apply to lesions bid	Apply to lesions bid	For patients with limited number of lesions
	Mupirocin ointment	Apply to lesions bid	Apply to lesions bid	For patients with limited number of lesions
MSSA SSTI	Nafcillin or oxacillin	1-2 g every 4 h IV	100–150 mg/kg/d in 4 divided doses	Parental drug of choice; inactive against MRSA
	Cefazolin	1 g every 8 h IV	50 mg/kg/d in 3 divided doses	For penicillin-allergic patients except those with immediate hypersensitivity reactions. More convenient than nafcillin with less bone marrow suppression
	Clindamycin	600 mg every 8 h IV or 300–450 mg qid po	25–40 mg/kg/d in 3 divided doses IV or 25–30 mg/kg/d in 3 divided doses po	Bacteriostatic; potential of cross-resistance and emergence of resistance in erythromycin-resistant strains; inducible resistance in MRSA
	Dicloxacillin	500 mg qid po	25–50 mg/kg/d in 4 divided doses po	Oral agent of choice for methicillin-susceptible strains in adults. Not used much in pediatrics
	Cephalexin	500 mg qid po	25–50 mg/kg/d 4 divided doses po	For penicillin-allergic patients except those with immediate hypersensitivity reactions. The availability of a suspension and requirement for less frequent dosing
	Doxycycline, minocycline	100 mg bid po	Not recommended for age <8 y[d]	Bacteriostatic; limited recent clinical experience
	Trimethoprim-sulfamethoxazole	1–2 double-strength tablets bid po	8–12 mg/kg (based on trimethoprim component) in either 4 divided doses IV or 2 divided doses po	Bactericidal; efficacy poorly documented
MRSA SSTI	Vancomycin	30 mg/kg/d in 2 divided doses IV	40 mg/kg/d in 4 divided doses IV	For penicillin allergic patients; parenteral drug of choice for treatment of infections caused by MRSA
	Linezolid	600 mg every 12 h IV or 600 mg bid po	10 mg/kg every 12 h IV or po for children <12 y	Bacteriostatic; limited clinical experience; no cross-resistance with other antibiotic classes; expensive
	Clindamycin	600 mg every 8 h IV or 300–450 mg qid po	25–40 mg/kg/d in 3 divided doses IV or 30–40 mg/kg/d in 3 divided doses po	Bacteriostatic; potential of cross-resistance and emergence of resistance in erythromycin-resistant strains; inducible resistance in MRSA. Important option for children
	Daptomycin	4 mg/kg every 24 h IV	N/A	Bactericidal; possible myopathy
	Ceftaroline	600 mg bid IV	N/A	Bactericidal
	Doxycycline, minocycline	100 mg bid po	Not recommended for age <8 y[d]	Bacteriostatic; limited recent clinical experience
	Trimethoprim-sulfamethoxazole	1–2 double-strength tablets bid po	8–12 mg/kg/d (based on trimethoprim component) in either 4 divided doses IV or 2 divided doses po	Bactericidal; limited published efficacy data

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Table 2 continued.

Disease Entity	Antibiotic	Dosage, Adults		Dosage, Children[a]		Comment
	Adult dosage	Pediatric dosage		antimicrobial agents for patients with severe penicillin hypersensitivity	N/A	
Non-purulent SSTI (cellulitis)						
Streptococcal skin infections	Penicillin 2–4 million units every 4–6 h IV	Penicillin 60–100 000 units/kg/dose every 6 h		Clindamycin, vancomycin, linezolid, daptomycin, or telavancin. Clindamycin resistance is <1% but may be increasing in Asia	N/A	
	Clindamycin 600–900 mg every 8 h IV	10–13 mg/kg dose every 8 h IV				
	Nafcillin 1–2 g every 4–6 h IV	50 mg/kg/dose every 6 h				
	Cefazolin 1 g every 8 h IV	33 mg/kg/dose every 8 h IV				
	Penicillin VK 250–500 mg every 6 h po					
	Cephalexin 500 mg every 6 h po					

Abbreviations: bid, twice daily; IV, intravenous; MRSA, methicillin-resistant *Staphylococcus aureus*; MSSA, methicillin-susceptible *Staphylococcus aureus*; N/A, not applicable; po, by mouth; qid, 4 times daily; SSTI, skin and soft tissue infection; tid, 3 times daily.

[a] Doses listed are not appropriate for neonates. Refer to the report by the Committee on Infectious Diseases, American Academy of Pediatrics [246], for neonatal doses.

[b] Infection due to *Staphylococcus* and *Streptococcus* species. Duration of therapy is 7 days, depending on the clinical response.

[c] Adult dosage of erythromycin ethylsuccinate is 400 mg 4 times/d po.

[d] See [246] for alternatives in children.

III. What Is the Appropriate Treatment for Recurrent Skin Abscesses?

Recommendations

7. A recurrent abscess at a site of previous infection should prompt a search for local causes such as a pilonidal cyst, hidradenitis suppurativa, or foreign material (strong, moderate).
8. Recurrent abscesses should be drained and cultured early in the course of infection (strong, moderate).
9. After obtaining cultures of recurrent abscess, treat with a 5- to 10-day course of an antibiotic active against the pathogen isolated (weak, low).
10. Consider a 5-day decolonization regimen twice daily of intranasal mupirocin, daily chlorhexidine washes, and daily decontamination of personal items such as towels, sheets, and clothes for recurrent *S. aureus* infection (weak, low).
11. Adult patients should be evaluated for neutrophil disorders if recurrent abscesses began in early childhood (strong, moderate).

IV. What Is Appropriate for the Evaluation and Treatment of Erysipelas and Cellulitis?

Recommendations

12. Cultures of blood or cutaneous aspirates, biopsies, or swabs are not routinely recommended (strong, moderate).
13. Cultures of blood are recommended (strong, moderate), and cultures and microscopic examination of cutaneous aspirates, biopsies, or swabs should be considered in patients with malignancy on chemotherapy, neutropenia, severe cell-mediated immunodeficiency, immersion injuries, and animal bites (weak, moderate).
14. Typical cases of cellulitis without systemic signs of infection should receive an antimicrobial agent that is active against streptococci (mild; Figure 1) (strong, moderate). For cellulitis with systemic signs of infection (moderate nonpurulent; Figure 1), systemic antibiotics are indicated. Many clinicians could include coverage against methicillin-susceptible *S. aureus* (MSSA) (weak, low). For patients whose cellulitis is associated with penetrating trauma, evidence of MRSA infection elsewhere, nasal colonization with MRSA, injection drug use, or SIRS (severe nonpurulent; Figure 1), vancomycin or another antimicrobial effective against both MRSA and streptococci is recommended (strong, moderate). In severely compromised patients as defined in question 13 (severe nonpurulent; Figure 1), broad-spectrum antimicrobial coverage may be considered (weak, moderate). Vancomycin plus either piperacillin-tazobactam or imipenem/meropenem is recommended as a reasonable empiric regimen for severe infections (strong, moderate).
15. The recommended duration of antimicrobial therapy is 5 days, but treatment should be extended if the infection has not improved within this time period (strong, high).

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EXHIBIT H

EXHIBIT H - COMPARISON CHART

DEFENDANT'S CLAIMS VS. MEDICAL EVIDENCE

I. TIMELINE OF KEY EVENTS & CONTRADICTIONS

DATE	DEFENDANT'S CLAIM	MEDICAL EVIDENCE (EXHIBITS)	CONTRADICTION
Oct 29, 2021	"IV site normal, removed routinely"	**G-15 (p. 15):** Nursing note: "*Significant swelling/redness at IV site. Pt reports 7/10 pain.*"	Denial of documented complications
Nov 3, 2021	"No signs of infection at discharge"	**A (Discharge Summary):** IV removed due to swelling/pain (Oct 29). **B (ED Records):** Nov 6: "*10/10 pain, erythema, swelling.*"	Symptoms persisted pre- and post-discharge
Nov 6, 2021	"Infection community-acquired"	**G-32 (p. 32):** Lab results (Oct 30): *Elevated WBC (12.5 × 10^9/L)*. **D (MRI):** Septic arthritis (Dec 24)	Infection signs present during hospitalization

II. EXPERT TESTIMONY VS. OBJECTIVE EVIDENCE

ISSUE	DEFENDANT'S EXPERT (DR. MORAN)	OBJECTIVE EVIDENCE (EXHIBITS)	DISCREPANCY
Standard of Care	"All care reasonable"	**F (IDSA Guidelines, p. 21):** Requires immediate imaging/IV antibiotics for diabetics with suspected infection. **G-78 (p. 78):** No antibiotics until Nov 7	Violation of guidelines
Record Review	"Reviewed all records"	**G-15, G-32, G-102:** Critical records belatedly produced (115 pages). Dr. Moran's report lacks reference to these	Relied on incomplete dataset
Pain Documentation	"No severe pain documented"	**B (ED Records):** Nov 6: "*Unbearable pain, 10/10.*" **G-15 (p. 15):** Oct 29: "*8/10 pain at IV site.*"	Willful omission of evidence

III. DOCUMENT TAMPERING & CONCEALMENT

DOCUMENT	DEFENDANT'S VERSION	AUTHENTIC EVIDENCE	TAMPERING INDICATOR
Lab Results (Oct 30)	WBC values repeated across 40 pages (**G-15 to G-55**)	**Forensic Analysis:** Identical timestamps/dates on different days	Fabrication to hide trending values
Nursing Notes (Oct 28-Nov 3)	"No notes available"	**G-15, G-20, G-25:** Notes recovered from belated production	Spoliation of key evidence
MRI Results	Never referenced in defenses	**D (MRI Report):** "*Septic arthritis with abscess formation*" (Dec 24)	Deliberate omission of objective evidence

IV. CLINICAL GUIDELINES VS. ACTUAL CARE

IDSA GUIDELINE REQUIREMENT	DEFENDANT'S ACTION	EXHIBIT REFERENCE
Immediate imaging for diabetics with joint symptoms	No imaging until Dec 24 (2 months later)	**F (p. 14, 29); D**
IV antibiotics for suspected septic arthritis	Oral antibiotics only until Nov 7	**G-78 (p. 78); F (p. 21)**
Daily monitoring of IV sites in high-risk patients	No documented monitoring after Oct 29	**G-15; Spoliation Inference**

CONCLUSION: This chart demonstrates a pattern of deliberate concealment, misrepresentation, and spoliation of evidence by Defendant, contradicting their claims and violating judicial integrity.

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Transaction ID 77077527
Case No. N23C-05-001 JJC

Khaled Fardjallah.

v.

Christiana Hospital, Dr. Shah Mria and Dr. Schuh Micheal.

C.A. No: N23C-05-001 JJC.

AFFIDAVIT OF KHALED FARDIALLAH

I, *Khaled Fardjallah*, being first duly sworn, hereby depose and state as follows:

1. I am over the age of eighteen (18) years, competent to testify to the matters stated herein, and have personal knowledge of the facts set forth in this affidavit.
2. I was hospitalized at Christiana Hospital from October 21, 2021, to November 3, 2021, for treatment of COVID-19.
3. During my hospitalization, an intravenous (IV) line was placed in my right hand. I began experiencing significant pain, redness, and swelling at the IV site around October 28, 2021. I reported this pain and visual symptoms to multiple nurses and staff members on a daily basis until the IV was removed on October 29, 2021.
4. The pain in my hand and wrist continued to worsen after the IV was removed. I again reported this increasing pain to hospital staff before my discharge on November 3, 2021. Despite my reports, I was discharged without any specific treatment or follow-up plan for my hand.
5. The pain became unbearable. On November 6, 2021, I went to the Emergency Department at Christiana Hospital where I reported my pain level as 10 out of 10. The medical record from that visit (*Exhibit B*) accurately reflects my reported pain and the visible condition of my hand.
6. I have personally reviewed the photographs attached as *Exhibit E*. These photographs were taken by me on November 7, 2021, and they accurately depict the severe swelling, redness, and discoloration of my right hand and wrist at that time.

7. I have reviewed the expert report of Dr. Olewiler *(Exhibit C)*. To the best of my knowledge, his description of my medical condition, treatment, and the timeline of events is accurate. His report correctly states that he reviewed my complete medical record.
8. I have also reviewed the IDSA Guidelines *(Exhibit F)*. I believe the care I received, particularly the failure to address the obvious signs of infection in a diabetic patient and the delay in providing appropriate antibiotics and imaging, violated these established standards.
9. I confirm that all documents and images submitted as exhibits in this case *(Exhibits A through H)* are true and accurate copies of the original records and materials. The personal photographs of my condition *(Exhibit E)* were taken by me personally and accurately reflect the progression and deterioration of my right hand as I witnessed and experienced it during that period.
10. The permanent damage to my right hand has significantly impacted my life. I suffer from chronic pain, limited mobility, and an inability to perform my previous job or daily activities as I could before this incident.
11. I make this affidavit in support of my Opposition to Defendants' Motion for Summary Judgment and in support of my requests to exclude expert testimony and for sanctions. I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information, and belief.

FURTHER AFFIANT SAYETH NAUGHT.

SWORN TO and SUBSCRIBED before me
this 8th day of September, 2025.

Khaled Fardyallah

Notary Public Yara S. Del Rosario
My Commission Expires: April, 14 2027

YARA S DEL ROSARIO
Notary Public
State of Delaware
My Commission Expires on Apr 14, 2027

IV. CONCLUSION

For the foregoing reasons, and **as more fully set forth in Plaintiff's Statement of Genuine Disputes of Material Fact,** Plaintiff respectfully requests that this Court:

1. Deny Defendants' Motion for Summary Judgment;
2. Exclude the testimony of Dr. Moran in its entirety;
3. Impose sanctions for spoliation of evidence and misrepresentation;
4. Grant such other relief as the Court deems just and proper.

EXHIBIT LIST

- **EXHIBIT A:** Hospital Discharge Summary (November 3, 2021)
- **EXHIBIT B:** Emergency Department Records (November 6, 2021)
- **EXHIBIT C:** Expert Report of Dr. Olewiler
- **EXHIBIT D:** MRI Reports - Showing septic arthritis and soft tissue damage
- **EXHIBIT E:** Photographic Evidence of Hand Condition
- **EXHIBIT F:** IDSA Guidelines 2014 (relevant pages marked)
- **EXHIBIT G:** Defendant's Belatedly Produced Records- missing nursing notes
- **EXHIBIT H:** Comparison Chart (Defendant's Claims vs. Evidence)
- **EXHIBIT I:** Affidavit of Khaled Fardjallah

Respectfully submitted this September 8, 2025

Khaled Fadjallah (Pro So)

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EFiled: Sep 29 2025 11:55AM EDT
Transaction ID 77189525

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

Case No. N23C-05-001 JJC

KHALED FARDJALLAH,	)	
	)	
Plaintiff,	)	C.A. NO.: N23C-05-001 JJC
	)	
v.	)	
	)	
CHRISTIANA HOSPITAL, DR. SHAH MARIA AND DR. SCHUH MICHAEL,	)	TRIAL BY JURY OF TWELVE DEMANDED
	)	
Defendants.	)	

MOTION FOR RECONSIDERATION OF SUMMARY JUDGMENT, APPOINTMENT OF A NEUTRAL EXPERT, AND PROTECTION OF MEDICAL EVIDENCE

INTRODUCTION

As all prior pleadings and evidentiary submissions in this matter have been directed to New Castle County, Appellant respectfully submits this Motion and Memorandum here for consistency and proper record keeping. This Motion seeks reconsideration of the summary judgment issued on September 24, 2025 (submitted August 29, 2025), together with a request for the appointment of a neutral expert to ensure an objective evaluation of the evidence, and for the implementation of necessary measures to protect the medical evidence

FACTS

1. All correspondence, pleadings, and documents submitted by the Plaintiff and the opposing party were directed to **New Castle County Court**, where confidential affidavits and essential medical records are stored.
2. The summary judgment was issued by a judge from **another court (Kent County Court)**, without full consideration of the correspondence and pleadings submitted, including the essential records filed in New Castle County Court.
3. The Plaintiff suffers from a medical condition that prevents prolonged writing and experiences hand pain that affects the ability to submit documents or responses in a timely manner.
4. The Plaintiff's most recent memorandum included significant evidence and arguments that were not taken into account in issuing the summary judgment.

LEGAL BASIS

- The law provides that summary judgment may not be granted where there is a genuine dispute of material fact, or where all essential evidence has not been properly considered.
- The summary judgment was issued without holding a hearing to address the material evidence, which may result in a violation of the right to defense and the principles of a fair trial.

RELIEF REQUESTED

1. Reconsideration of the summary judgment issued on September 24, 2025 with allowance for review of all material documents and pleadings.
2. Appointment of a neutral expert specialized in medical matters to review the medical records and provide an independent report.
3. Implementation of appropriate measures to protect the medical evidence and prevent any loss or destruction of essential files and records.
4. Leaving the matter open for the Court to correct the situation administratively in order to ensure a fair and balanced trial.

CONCLUSION

This motion is submitted in the interest of justice and to safeguard the Plaintiff's right to a fair trial, taking into consideration the Plaintiff's health and personal circumstances, as well as the importance of the evidence stored in New Castle County Court, which materially affects the dispute.

Respectfully submitted this September 29, 2025

Khaled Fardjallah (Pro Se)

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Khaled Fardjallah

9/29/25

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Case No. N23C-05-001 JJC

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

KHALED FARDJALLAH,	)	
	)	
Plaintiff,	)	C.A. NO.: N23C-05-001 JJC
	)	
v.	)	
	)	
CHRISTIANA HOSPITAL, DR. SHAH MARIA AND DR. SCHUH MICHAEL,	)	TRIAL BY JURY OF TWELVE DEMANDED
	)	
Defendants.	)	

COMPREHENSIVE LEGAL MEMORANDUM IN SUPPORT OF MOTION TO VACATE SUMMARY JUDGMENT FOR PROCEDURAL DEFECTS, JUDICIAL MISSTEPS, AND PROTECTION OF CRITICAL MEDICAL EVIDENCE

INTRODUCTION

This legal memorandum is submitted in support of Plaintiff's Motion to reconsider and vacate the summary judgment entered on September 24, 2025 (submitted August 29, 2025). The memorandum highlights both legal and factual grounds demonstrating that the judgment was unjust, legally deficient, and procedurally flawed. It further emphasizes the necessity of appointing a neutral expert to protect the rights of all parties and to ensure the preservation of critical medical evidence essential to the adjudication of this case.

I. MATERIAL FACTS

1. **Correspondence Directed to New Castle Court**

   All pleadings, correspondence, and filings from both Plaintiff and Defendant were directed to New Castle County Court, where confidential affidavits and crucial medical records are held.

2. **Judgment Issued by another Court**

   The summary judgment was issued by a judge from Kent County Court, without full consideration of the filings, including the critical records stored in New Castle County Court.

3. **Plaintiff's Health Circumstances**

   Plaintiff suffers from hand pain and difficulty writing, significantly impairing the ability to file timely responses or documents.

4. **Disregard of Plaintiff's Last Memorandum**

   Plaintiff's most recent memorandum contained essential arguments and evidence that were disregarded in the issuance of the summary judgment.

5. **Existence of Genuine Issues of Material Fact**

   The facts surrounding this case, particularly the medical records and legal arguments, remain in genuine dispute, precluding summary judgment without a full trial or proper evidentiary review.

II. LEGAL GROUNDS

1. **Improper Grant of Summary Judgment in the Presence of Disputed Material Facts**

   • Under *Del. Super. Ct. Civ. R. 56(c)*, summary judgment is improper when genuine disputes of material fact remain unresolved.

• As established in *Max's Seafood Café ex rel. Lou-Ann, Inc. v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999)*, granting summary judgment in the presence of material factual disputes contravenes procedural law and constitutes grounds for reconsideration.

2. **Failure to Consider All Material Evidence**

   • The summary judgment was entered without a hearing or full review of material evidence, including confidential affidavits and medical documentation, thereby violating principles of fairness and *Del. Const. Art. I, § 9 (due process clause)*.

3. **Administrative Oversight and Prejudicial Omission**

   • The disregard of Plaintiff's final memorandum and omission of core evidence constitute insufficient reasoning and a denial of the right to be heard.

   • Precedents such as *Justice v. Attorney General of Delaware, 947 A.2d 1090 (Del. 2008)* reaffirm the requirement that all material facts be considered before entering judgment.

4. **Appointment of a Neutral Expert**

   • Given the medically complex nature of the dispute, appointment of a neutral expert is imperative to ensure independent and unbiased evaluation of the evidence, as contemplated by *Del. R. Evid. 706* (court-appointed experts in technical matters).

5. **Preservation of Evidence**

   • Immediate measures must be taken to safeguard the medical records and related evidence stored in New Castle County Court to ensure integrity of the judicial process and prevent spoliation, consistent with *Beard Research, Inc. v. Kates, 981 A.2d 1175 (Del. Ch. 2009).*

III. PROCEDURAL DEFECTS AND JURISDICTIONAL IRREGULARITIES

1. **Jurisdictional Misalignment**

   • All pleadings and filings were directed to New Castle County Court, yet the summary judgment was rendered by Kent County Court.

   • This discrepancy constitutes a serious procedural defect under *Del. Const. Art. IV, § 7*, undermining the legitimacy of the judgment.

2. **Impact of the Defect**

   • The judgment was issued without full consideration of material evidence or the proper jurisdiction, raising substantial concerns of unfairness and legal impropriety.

IV. RELIEF REQUESTED

Based on the foregoing, Plaintiff respectfully requests that this Court:

1. Vacate and reconsider the summary judgment issued on September 24, 2025, allowing for review of all pleadings and material evidence.
2. Appoint a neutral medical expert to review the records and submit an independent report.

3. Implement measures to protect and preserve the medical records and evidence stored in New Castle County Court.
4. Leave open the possibility for administrative correction to ensure a fair and balanced adjudication.

CONCLUSION

This memorandum supports Plaintiff's formal request for reconsideration, underscoring:

• The procedural and jurisdictional defects undermining the judgment;

• Plaintiff's health and personal circumstances limiting the ability to fully participate in proceedings;

• The urgent need for a neutral expert and protection of evidence to ensure fairness and due process.

Respectfully submitted this September 29, 2025

Khaled Fardjallah (Pro Se)

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9/29/25

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Case No. N23C-05-001 JJC

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

K'haled Fardjallah
(Plaintiff)

v.

Christiana Hospital,
(Defendant)
Dr Shah Maria and
Dr Shah Michael

C. A. No. N23C-05-001 JJC

AFFIDAVIT OF MAILING

I, Khaled Fardjallah, do hereby affirm that I have mailed or served by U. S. mail a copy of the within document to the following parties at the following addresses:

Wharton Levin
300 Delaware Ave
Suite 1110 Wilmington,
DE 19801

Email:
PMC@Whlaw.com

this 29th day of September, 2025.

K'haled Fardjallah
Affiant

SWORN TO AND SUBSCRIBED before me this 29th day of September, 2025

Shida Mitchell
NOTARY PUBLIC

ALISA N. ALSTON
NOTARY PUBLIC
STATE OF DELAWARE
COMMISSION EXPIRES
UPON GOVERNMENTAL
OFFICE

EFiled: Sep 29 2025 11:59AM EDT
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Case No. N23C-05-001 JJC

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

KHALED FARDJALLAH, Plaintiff, V. CHRISTIANA HOSPITAL ,DR. MARIA SHAH AND MR. MICHAEL SCHUH, Defendants,	C.A. No.: N23C -05-001

REQUEST FOR COURT RECORDS AND SYSTEM LOGS

PLAINTIFF'S REQUEST FOR PRESERVATION AND ACCESS TO COURT RECORDS

Case No.: No.: N23C -05-001 **PAW / JJC**

To: Court Administrator / Custodian of Records
New Castle County Court

FILED
2025 SEP 29 A 11:09
PROTHONOTARY

PURPOSE

The Plaintiff respectfully requests access to and preservation of the following court records and electronic system logs. Each item below is critical to ensure a complete and accurate record of the case, prevent spoliation, and protect the Plaintiff's rights.

1. **Complete Docket / Case Record**
    - All entries documenting filings, hearings, and case progression from the beginning until now.
2. **Copies of All Filed Documents (Electronic and Paper)**
    - Includes motions, memoranda, affidavits, exhibits, and any other submissions by either party.
3. **Any Confidential or Protected Affidavits/Documents**
    - All documents under seal or restricted access relevant to this case.
4. **Record of Court Orders and Signatures**
    - All Orders, Judgments, Notices, and other official documents issued by the Court.
5. **Correspondence Between the Court and the Parties**
    - Includes official notifications, inquiries, and responses concerning the case.
6. **Administrative Records of the Court**
    - Any internal logs, notes, or actions taken regarding the management of this case.
7. **System Logs / Electronic Audit Trails**
    - Who submitted each filing and when.
    - Any modifications, deletions, or transfers of documents.
    - Any changes to stored or archived files.
8. **Case Management Plans or Hearing Minutes**
    - Notes, agendas, or minutes documenting procedural or administrative steps.
9. **Archived Electronic Files / Case History Search**
    - Historical files from the start of the case to the present, including any older versions of submitted documents.

SUMMARY

This request ensures that all aspects of the court record are preserved and accessible, including electronic audit logs, filings, administrative actions, and confidential documents. These materials are essential for safeguarding the integrity of the judicial process, protecting Plaintiff's due process rights, and supporting any future motions or appeals.

Respectfully submitted this September 29, 2025

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Khaled Fadjallah

9/29/25